

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18894 OF 2006

DATED 13th SEPTEMBER, 2006

BETWEEN

Ajay Kumar Gupta Dochania

... Petitioner

and

The District Collector, Medak District, Sangareddy, A.P., and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18894 OF 2006

ORDER:

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Aggrieved by the notice, dated 08.09.2006, issued by the third respondent, the petitioner invoked the extraordinary jurisdiction of this Court under Article 226 of Constitution of India. He seeks a writ of Mandamus declaring the impugned notice as void and unenforceable.

The petitioner along with his friends, family members and associates claim to be owner of land admeasuring Acs.203.00 allegedly comprised in survey Nos.216/1, 216/9, 216/19, 216/22 and 261/33 situated at Annaram village of Jinnaram Mandal of Medak District. These lands were allegedly purchased under registered documents during the period from 1985 to 1986.

The petitioner also claims that the title of the vendors of the petitioner and predecessors in title of the vendors, has been upheld by various Judgments of this Court in writ petitions. He further states that one Govind, who is the petitioner's predecessor in title filed a suit being O.S.No.24 of 2006 against Chintagudi Satyanarayana and Cheerala Narayana, on the file of the Court of the Junior Civil Judge, Narsapur in Medak District and obtained ad interim injunction against the defendants therein in I.A.No.79 of 2006, dated 20.06.2006. The petitioner, thereafter, obtained police protection after paying user charges in a sum of Rs.1,00,000/- per month and started the work with heavy earthmoving machine for the ostensible purpose of levelling and fixing the boundaries of the land allegedly demarcated by the Mandal Surveyor, Jinnaram on 29.03.2006. At that stage, the third respondent issued the impugned notice.

Learned counsel for the petitioner submits that when there was no dispute about title for the entire extent of land in survey No.261/7A of Annaram village, it was illegal for the third respondent to have issued impugned notice directing the petitioner to stop the work. Secondly, he submits that Chintagudi Satyanarayana, who was a party to the suit, filed application based on which the Mandal Revenue Officer (MRO) issued the notice, which is unsustainable.

A reading of the impugned notice/order, dated 08.09.2006 would

show that Govind, alleged predecessor in title of the petitioner, filed the suit for injunction being O.S.No.24 of 2006 in respect of the land admeasuring Acs.3.00 (out of Acs.13.00) in survey No.261/7A. He also obtained ad interim ex parte injunction on 23.02.2006. But the petitioner encroached upon the Government land to an extent of Acs.20.00 in survey No.261/7A and taken up the work of development of formation of roads. The villagers represented to the MRO about the encroachment of the Government land. Chintagudi Satyanarayana also filed an application on 07.09.2006 that Govind and Ajay Kumar highhandedly destroyed tomato and vegetable crops, and therefore, impugned notice is issued. MRO also observed that the total extent of survey No.261 being Acs.588.30, which is a Ghat number, it is difficult to identify the patta land unless and until proper demarcation of the land is completed by the Assistant Director, Survey and Land Records, Sangareddy.

There is no denial that petitioner's predecessor in title filed the suit against Chintagudi Satyanarayana only in respect of land admeasuring Acs.3.00 in survey No.261/7A as seen from the temporary injunction order filed along with the writ petition. In the guise of said injunction order, the petitioner or his predecessor allegedly encroached upon the Government land in survey No.261, which is a ghat number without proper demarcation. Therefore, certainly it would be the job of the MRO to issue notice to the petitioner to stop alleged illegal activities. The petitioner's predecessor has already filed a suit in the civil Court and if the petitioner has any grievance, the remedy lies in approaching the civil Court alone for appropriate clarification or further orders. Having got filed the suit, the petitioner cannot again invoke public law remedy. In that view of the matter, the allegation of the petitioner that the title of the petitioner's vendors or their predecessors was subject matter of number of writ proceedings is of no avail. The petitioner can seek redressal for all his grievances from the civil Court, if necessary by filing a suit for declaration of title.

The writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

13.09.2006.
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